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TO	NAME AND ADDRESS		DATE	INITIALS
1	Mr. George L. Cary Legislative Counsel			<i>JL</i>
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ACTION	DIRECT REPLY	PREPARE REPLY		
APPROVAL	DISPATCH	RECOMMENDATION		
COMMENT	FILE	RETURN		
CONCURRENCE	INFORMATION	SIGNATURE		

Remarks:

Attached for discussion purposes is a revised draft of proposed letter to Mr. Ribicoff. The draft is a combination of (a) the most recent OLC draft, (b) suggestions of Mr. Iams reflected in his memo of 11 July 1975 and (c) Office of Finance suggestions.

[Redacted]

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Thomas B. Yale
Director of Finance

Att

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FROM: NAME, ADDRESS AND PHONE NO.		DATE
Director of Finance 1212 Key Bldg.		7/16/75
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* GPO : 1974 O - 535-857

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Honorable Abraham Ribicoff, Chairman
Committee on Government Operations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

I understand that S. 653, introduced by Senator Proxmire, has been referred to the Committee on Government Operations for consideration. This bill would authorize the Comptroller General to conduct an audit of the accounts and operations of an intelligence agency, when requested by a congressional committee with legislative jurisdiction ^{over} of that agency. A report of the audit would be submitted to the requesting committee. The legislation states that the audit shall be conducted notwithstanding section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j). This section reads:

"(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified."

Because S. 653 would seriously erode the important section 8(b) authority, I am writing to express my opposition to the bill.

The Central Intelligence Agency was established by the National Security Act of 1947 (50 U.S.C. 403) with the basic mission of providing our nation's policy-makers with the best possible intelligence on foreign developments and threats. Our ability to provide accurate and current intelligence to the

President, the National Security Council, and to the Congress depends heavily upon the acquisition and protection of productive sources and effective methods of collection and analysis. Preservation of these sources and methods is absolutely dependent on their secrecy. This essential secrecy was recognized by the Congress in its directive in the National Security Act of 1947, as amended (50 U.S.C.403), that:

"The Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

One of the key statutory tools enabling the Director to protect Intelligence Sources and Methods is the section 8(b) authority to expend confidential funds solely on the certificate of the Director. The Agency has used this confidential funds authority with restraint. It has been and it remains the policy of CIA to rely upon vouchered funds wherever possible, and to subject confidential as well as vouchered funds to an internal audit which complies with the same principles and standards as are applied by the Comptroller General in auditing other agencies of the Government. (Vouchered funds are those which can be accounted for and audited in conformance with the laws that apply to other Government agencies and with standard Government regulations and

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The confidential funds certification authority is reserved for "objects of a confidential, extraordinary, or emergency nature." Such expenditures would apply, for example,

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This person may stand in danger of losing his life, should his relationship

with CIA become known. Most Americans who provide information to us also insist that their cooperation be kept secret. We have always been able to assure those who assist us that no one outside CIA will have access to their records, and that only the absolute minimum number of Agency employees will know of the relationship. I believe the public revelation that non-Agency auditors over whom the Director exercises no administrative authority or direction could gain access to their names or records might well discourage many of these people from future cooperation, and would certainly affect the assurance we could, in good faith, provide. We have already lost some cooperation, due to the fear of disclosure evoked by the amendments to the Freedom of Information Act and the plethora of leaks and allegations about CIA activities.

GAO auditors can be presumed to be just as loyal and trustworthy as CIA auditors, and can be granted security clearances with equal facility but they have no administrative or security responsibility to the Director of Central Intelligence. The DCI exercises no control over them which would permit him to meet his responsibility to protect sources and methods. To the extent that external auditors, or any other persons not under the direction of the DCI, are granted unrestricted access to documents containing information about sources and methods, the Director will have lost control and his responsibility will have been abrogated. Preservation of that responsibility and the authority to meet it is vital to the effective performance of an intelligence organization.

The importance of section 8(b) was acknowledged by Mr. Lindsay C. Warren, Comptroller General at the time the CIA Act was before Congress. A letter dated March 12, 1948, from Mr. Warren to the Director of the Bureau of the Budget addressed this confidential funds authority. Mr. Warren wrote that while this authority provided "for the granting of much wider authority than I would ordinarily recommend for Government agencies, generally, the purposes sought to

be obtained by the establishment of the Central Intelligence Agency are believed to be of such paramount importance as to justify the extraordinary measures proposed therein." He further stated that the "necessity for secrecy in such matters is apparent and the Congress apparently recognized this fully in that it provided in Section 102(d) 3 of Public Law 253, that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." Under these conditions, he stated, "I do not feel called upon to object to the proposals advanced..."

The General Accounting Office did audit certain CIA accounts over a thirteen-year period, beginning with an audit of the vouchered accounts of this Agency in 1949. This was the same audit GAO conducted of other Federal agencies. In the 1950's, however, GAO instituted the comprehensive audit, the purpose of which was to examine all agency financial transactions, as well as to evaluate the utilization of property and personnel, and the effectiveness and economy of the conduct of agency programs. Through negotiations between CIA and GAO, an expanded audit by GAO was begun in 1959, but one which fell short of the full comprehensive audit in that it did not encompass the most sensitive agency accounts and operations. During these negotiations, the Comptroller General again expressed his support for section 8(b).

This arrangement was maintained until 1962. Despite the urging of the Director of Central Intelligence (Mr. McCone) and Chairman of the Committee on Armed Services of the House of Representatives (Mr. Vinson), GAO recommended that its audit be discontinued, stating the view that GAO did "not have sufficient access to make comprehensive reviews on a continuing basis that would be productive of evaluations helpful to the Congress." The Director and Mr. Vinson reluctantly agreed. As a result of the GAO desire

to discontinue its audit, the Agency established additional internal audit and review procedures. The Agency Audit Staff reports to me through the Inspector General and observes the same audit principles and standards as the GAO.

The decision of the Comptroller General to discontinue the audit of Agency activities was received with considerable reservation within CIA. We have always felt that an arrangement such as GAO review of the Agency internal audit process could be reached which would reassure Congress that GAO audit standards were being applied. I must oppose any legislation, however, including S.653, which would open our most sensitive records to any additional unrestricted access not subject to the direct administrative control necessary to permit anyone holding the Office of Director Central Intelligence to meet his responsibility to protect intelligence sources and methods, a responsibility created by Congress to enable us to carry our basic mission.